



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

**3500 DEFENSE PENTAGON
WASHINGTON, DC 20301-3500**

SUSTAINMENT

MEMORANDUM FOR SUPPLY PROCESS REVIEW COMMITTEE

**SUBJECT: Approved Defense Logistics Management Standards Change 1404, Defense
Logistics Agency Disposition Services Recycle Control Point Removal (Supply)**

The attached Approved Defense Logistics Management Standards Change, as outlined in the attachment, is approved for implementation.

Addressees may direct questions to Ms. Tonja Carter at tonja.carter@dla.mil. Others must contact their designated Process Review Committee representative, available at <http://www.dla.mil/HQ/InformationOperations/DLMS/allpoc/>.

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Leigh E. Method, SES
Deputy Assistant Secretary of Defense for
Logistics

Attachment:
As stated

cc:
OUSD(C)
DLA J6DS

ADC 1404

DLA Disposition Services Recycle Control Point (RCP) Removal

1. ORIGINATING SERVICE/AGENCY AND POC INFORMATION:

- a. **Technical POC:** Mr. Dennis Ross, J349, 571-767-1502, Dennis.Ross@dla.mil
- b. **Functional POC:** Tonja Carter, DEDSO Supply, 269-961-5227, Tonja.Carter@dla.mil

2. REFERENCES:

- a. Defense Logistics Manual (DLM) 4000.25, Volume 2, Chapter 16, Disposition Services and Chapter 17, Supply Discrepancy Reporting
- b. Approved DLMS Change (ADC) 442, Intra-DLA Revisions DLMS 527R Receipt and Associated Procedures for Users by DLA Disposition Services under Reutilization Business Integration (RBI) (Supply)
- c. DoDM 4160.21, Defense Materiel Disposition, Volumes 1, Disposal Guidance and Procedures and Volume 3, Transfer, And Sale of Property, current versions
- d. Title 32, Code of Federal Regulations, Sections 273.7 and 273.15
- e. CATMS USA002368-20, Elimination of DLA Recycling Control Point Program, DoD OGC Non-Concurrence, January 8, 2021
- f. Memorandum for DLA Disposition Services and DLA Distribution, Subject: Elimination of Recycling Control Point, February 3, 2021

3. APPROVED CHANGE:

- a. **Brief Overview of Change:** As of February 11, 2021, DLA Disposition Services is no longer sourcing incoming inventory to RCP identified as RIC S9W. This Change facilitates the discontinuation of DLA Disposition Services' RCP process and eliminates RIC S9W.
- b. **Background:**

(1) In 2011, DLA Disposition Services transitioned from the previous DLA Disposition Services Automated Information System (DAISY), into the Distribution Standard System (DSS), supported under the Reutilization Business Integration (RBI) initiative (Reference 2.a).

(2) The 2011 business requirements resulted in the creation of new data elements and policies for RCP (Reference 2.b.), however, guidance published in February 2021 (Reference 2.e and 2.f) identified in Enclosure 3 and 4, no longer requires RCP as part of DLA Disposition Services business.

(3) In 2020, DLA Disposition Services performed an internal review of their organization and business requirements, which resulted in removal of Recycle Control Point (RCP), identified as RIC S9W, from their business needs. DLA Disposition Services Field locations, identified as S9D, are not impacted by this change.

(4) RCP processes are supported in multiple transactions, policies, and business processes. To have accurate data, this change will remove RCP from the transactions identified in Enclosure 1 and procedures identified in Enclosure 2.

(5) This change will also delete RCP RIC S9W from the internal routing business rules in Defense Automatic Addressing System (DAAS).

(6) Upon staffing this PDC, DLA Disposition Services identified 10,000 line items currently on-hand at the RCP. To facilitate movement of the current inventory, coordination with DAAS has resulted in allowing the systemic movement of material from RIC S9W to RIC S9D until the on-hand balance is exhausted. No inbound processing will be allowed to RIC S9W.

(7) DLA Disposition Services will continue to support recycling; however, RCP as identified in this change, is a separate business process no longer part of DLA Disposition Services.

c. Approved Change in Detail:

(1) This change updates the implementation conventions (IC) identified in Enclosure 1.

(2) This change will remove all RCP procedures identified in DLM 4000.25 (Reference 2.a and Enclosure 2).

(3) DLA Disposition Services and Components will coordinate to resolve any open transactions addressed to or from RCP prior to implementation of this ADC.

(4) DLA Disposition Services will coordinate with the DLA Central Service Point (CSP) to delete RIC S9W. All material shipped to DLA Disposition Services must use RIC S9D.

(5) If transactions are sent to RIC S9W, DAAS will reject via DLMS 824R Reject Advice transaction with "Reject Advice Code AB Rejected. Submitted to incorrect manager. If known, the correct manager's routing identifier code (RIC) shall be supplied in the DLMS 824R 2/NM1/065 segment." Reject Advice Codes are identified in DLM 4000.25, Volume 2, Appendix 2.8.

(6) Any RCP business and/or routing rules at DAAS will require deleting.

d. Revisions to Defense Logistics Manuals:

(1) Delete DLMS notes and data elements that reference RCP in the ICs identified in Enclosure 1.

(2) Delete all RCP terminology and procedures from DLM 4000.25 as identified in Enclosure 2.

(3) Delete RCP terminology from the Logistics Data Resource Management System (LOGDRMS) and Data Dictionary.

4. ADVANTAGES AND DISADVANTAGES:

a. **Advantages:** This change will update the Policies and ICs to delete data elements no longer required.

b. **Disadvantages:** None.

5. ASSUMPTIONS USED OR WILL BE USED IN THE CHANGE OR NEW DEVELOPMENT: DLA Disposition Services warehousing system, DSS and Accountable Property System of Record (APSR) Enterprise Business System (EBS) will be required to have a phased approach for the current inventory contained at the RCP Site.

6. ESTIMATED TIMELINE/IMPLEMENTATION TARGET:

a. Upon approval of this change, DAAS will reject any transactions associated to RIC S9W to the originator.

b. DLA Disposition will exhaust inventory associated with RIC S9W and direct this to S9D.

c. Upon exhausting the inventory balance at S9W, DLA Disposition Services CSPs will delete RIC S9W.

7. ESTIMATED SAVINGS/COST AVOIDANCE ASSOCIATED WITH IMPLEMENTATION OF THIS CHANGE:

a. Cost Savings associated with this change will be an estimated \$11 Million annually for DLA Disposition Services for RCP material that is physically stored by DLA Distribution Depots.

b. Cost Savings of approximately 3 percent for DLA Disposition Services customers at service level billing.

8. IMPACT:

a. **New/Changes Data Elements:** RCP specific data elements will be deleted from ICs identified in Enclosure 1.

b. **Automated Information Systems (AIS):**

(1) Transactions routed to RIC S9W will be rejected from DAAS via the DLMS 824R Reject Advice, citing Reject Advice Code AB to the originator. Components' systems will require updating to ensure material is not sent to S9W.

(2) DLA Disposition Services process owners are required to submit a system change request that will allow EBS to remove logic related to RCP.

c. Defense Automatic Addressing System (DAAS):

(1) DLA Disposition Services will coordinate with DAAS on the current RCP routing rules and logic.

(2) DAAS will continue to route transactions from RIC S9W to S9D, as identified in paragraph 3.a.4.

(3) DLA Disposition Services and DAAS will identify any unique business rules not documented that supported RCP or RIC S9W.

(4) DAAS WebSDR will automatically reject any SDR submission addressed to RCP RIC S9W using Reply Code 929 (Transaction rejected: missing, invalid, or unauthorized use of DoDAAC, MAPAC, or RIC.) and provide a notice of the rejection back to the original submitter.

d. Non-DLM Publications: The below publications are expected to be approved in February 2022, per Enclosures 3 and 4.

(1) DoDM 4160.21, Volume 1 and Volume 3 (Reference 2.c)

(2) C.F.R, Title 32, Sections 273.7 and 273.15 (Reference 2.d)

9. PDC 1404 RESPONSE/COMMENT RESOLUTION:

	Component	Response/Comment	Disposition
1.	DAAS	Concurs	
2.	DLA	DLA Cataloging-Concurs DLA Disposal Policy-Concurs DLA-Concurs with Comment: EBS will require significant system changes to retire custom code related to RCP. The RCP functionality and S9W RIC cannot be retired until existing inventory has been removed from record. There are currently approximately 10k DTIDs on record for RCP plants in EBS that will need to be closed (as of August 24, 2021).	DEDSO responded on 9/27/21 with the following feedback to DLAs comments: 1. DEDSO requested information on efforts DLA Disposition Services is undertaking on moving material from RCP to S9D. 2. DEDSO requested feedback from DAAS research the possibility of allowing the RIC S9W to send material to S9D only. 3. DEDSO noted the PDC did advise of internal coordination efforts required to move material from S9W to S9D.

3.	US Air Force	<p>Concurs with Comment.</p> <p>ILS-S concurs with changes in the PDC. The changes do not drive any system changes in ILS-S. Note: The ILS-S Program Office will have the RIC 'S9W' added to the ILS-S sdr_ric_restriction table, which will prevent users from entering this value for any SDRs being submitted.</p>	Noted.
4.	US Army	<p>USA SDR-Concurs</p> <p>USA Supply-No Feedback Provided</p>	
5.	USMC	No Response	
6.	US Navy	Concurs.	
7.	USTRANSCOM	Concurs.	
8.	ODASD	<p>Concurs with Comments.</p> <ol style="list-style-type: none"> 1. The PDC should be updated to clarify that the DLA continues to execute recycling operations when feasible, but recycling operations are not performed through a separate disposal stream. 2. On the use of RCP and Recycle Control Point, recommend after the first use of Recycle Control Point (RCP), use RCP. 3. Page 2, recommend putting parenthesis around DAISY such as "DLA Disposition Services Automated Information System (DAISY)" or deleting the word DAISY since it is not used again in the document. 4. Page 3, spell out APSR. Does this stand for Accountable Property System of Record? 5. Page 3, it is unclear why IC is in parenthesis in "RCP specific data elements will be deleted from all relevant (ICs)." Recommend providing clarification. 6. Page 3, the term, "Components' " should be used in "Component's systems will require updating to ensure they will no longer send transactions to S9W." 7. The numbering of the Enclosures is inconsistent. The footer for Enclosure 2 says "Enclosure 3." 8. On page 1 of Enclosure 2 it shows paragraph C16.4.8. as deleted but does not specify that the following paragraphs need to be re-numbered. 9. Likewise, it shows C16.7.7.8. as deleted but does not specify that the following paragraphs need to be re-numbered. 10. Likewise, it shows C16.7.8.6. as deleted but does not specify that the following paragraphs need to be re-numbered. 	<p>DEDSO made the following updates:</p> <ol style="list-style-type: none"> 1. Clarified item 1 and annotated B.3 above. 2. Updated per recommendations. 3. Noted. 4. Updated per recommendations. 5. Removed parenthesis. 6. Updated 7. Noted and updates made. 8. Updated as identified in Enclosure 2. 9. Updated as identified in Enclosure 2. 10. Updated as identified in Enclosure 2.

Enclosure 1

Revise EDI X12 Implementation Conventions (IC) as shown:

Changes are identified by bold italics and deletions by single strikethrough text

#	Location	DLMS 4010 527R Receipt, Inquiry, Response and MRA	Reason
1.	DLMS Introductory Note	Add ADC 1404 to DLMS Introductory Note 7: - ADC 1404, DLA Disposition Services Recycling Control Point (RCP) Removal	Adds change to the introductory note.
2.	2/LQ01/130	Revise the DLMS note for FD Demilitarization Code: DLMS Note: Authorized DLMS enhancement for use by DLA Disposition Services in receipt, historical receipt and TRA transactions. Also used for RCP receipt. Refer to ADC 442 and ADC 1111. Also used for RCP receipt.	Removes RCP terminology.

#	Location	DLMS 4010 842A/R Standard Supply Discrepancy Report (SDR) Reply	Reason
1.	DLMS Introductory Note	Add ADC 1404 to DLMS Introductory Note 7: - ADC 1404, DLA Disposition Services Recycling Control Point (RCP) Removal	Adds change to the introductory note.
2.	2/LQ01/1050	Revise DLMS Note 2 for ST Special Marketing Type Code: DLMS Note: 2. For SDRs prepared via DoD WebSDR for Recycling Control Point (RCP) DLA Disposition Services receipts, this data element is used in conjunction with SDR Document Type Code 7: D - DLA Disposition Services Donated Materiel R - DLA Disposition Services Reutilization F - DLA Disposition Services Transferred Materiel S - DLA Disposition Services Sale O - Other DLA Disposition Services Shipment	Removes RCP Business Process.

#	Location	DLMS 4010 842A/W Standard Supply Discrepancy Report (SDR), Follow-Up, Correction, Cancellation, & Reconsideration Request	Reason
1.	DLMS Introductory Note	Add ADC 1404 to DLMS Introductory Note 7: - ADC 1404, DLA Disposition Services Recycling Control Point (RCP) Removal	Adds change to the introductory note.
2.	2/LQ01/1050	Revise Note 2 for ST Special Marketing Type Code: DLMS Note: 2. For SDRs prepared via DoD WebSDR for Recycling Control Point (RCP) DLA Disposition Services receipts, this data element is used in conjunction with SDR Document Type Code 7: D - DLA Disposition Services Donated Materiel R - DLA Disposition Services Reutilization F - DLA Disposition Services Transferred Materiel S - DLA Disposition Services Sale O - Other DLA Disposition Services Shipment	Removes RCP Business Process.

Enclosure 2

Defense Logistics Manual (DLM) 4000.25, Volume 2, Supply Standards and Procedures

Make the following changes to Volume 2. Deletions are shown by double strikethrough text.

Renumber existing paragraphs as necessary.

Chapter 16, Disposition Services

(Preceding text not shown)

C16.4.4. Release Denial.

(Intervening text not shown)

~~C16.4.8. Recycling Control Point. When materiel owners direct disposal of property held in the custody of DLA Distribution (using DSS) DLA Distribution will systemically screen in-coming Disposal Release Orders (DLMS 940R/A5J) to determine Recycling Control Point (RCP) eligibility. If the disposal item qualifies for RCP marketing, materiel is issued from the account of the original owner who directed disposal and a DLMS 856S/AS_ shipment confirmation is provided. Concurrently, a DLMS 527R Receipt (Transaction Type Code D4 with 2/LIN01/10 Code I (legacy DIC D6A functionality)) is posted to the RCP RIC S9W account. No DLMS 527R Disposition Services Turn-In Receipt Acknowledgement (TRA) transaction will be generated for materiel transferred to the RCP from a Distribution Center at the same location. Since there is no physical movement of the materiel when it is transferred to RCP ownership, it should not be considered intransit, but can be dropped immediately from the original owner's property record. DLA Distribution will retain physical custody while materiel is offered for RTD and sale via the RCP process.~~ Entire paragraph deleted.

(Intervening text not shown)

C16.7.7. Receipts of Turn-ins to DLA Disposition Services Field Offices.

(Intervening text not shown)

~~C16.7.7.8. Hazardous Material Indicator Code, Demilitarization code, and Controlled Inventory Item Code. The Hazardous Materials Indicator Code, DEMIL Code and CIIC will be included on all DLMS 527R Receipt transactions generated from Recycling Control Points (RCP) for transfers to DLA Disposition Services (RIC S9W) and from DLA Disposition Services Field Offices for receipts of generator turn-ins to DLA Disposition Services (RIC S9D).~~

(Intervening text not shown)

C16.7.8. Disposition Category Code Assignment and Associated Action

(Intervening text not shown)

C16.7.8.6. – ~~Routing Identifier Code-To S9W or S9D on DLA Disposition Services Directed Materiel Release Orders.~~ DLA Disposition Services specific DLMS 511R DLA-Directed MRO transactions will always display a RIC-To S9W or S9D. RIC-To S9W will be used to indicate property issued from a RCP; RIC-To S9D will be used to indicate property issued from a DLA Distribution Services Field Office

(Intervening text not shown)

C16.8. SUPPLY DISCREPANCY REPORTING. Supply discrepancy reports (SDRs) and associated responses will be reported via the Disposition Services Field Office system or DoD WebSDR, using the DLMS 842A/W, Standard Supply Discrepancy Report (SDR), Follow-up, Correction, Cancellation, & Reconsideration Request, for the initial SDR and the 842A/R, Standard Supply Discrepancy Report (SDR) Reply, for the reply. Discrepancies may be identified in shipments between the DLA Distribution Center and the DLA Disposition Services field office, between two DLA Disposition Services Field Offices, and between the field office and the generating customer, , as well as between DLA Distribution Centers and customers for ~~RCP directed shipments~~. The SDR may be reported by the receiving field office or by the receiving customer.

(Intervening text not shown)

C16.8.2. ~~RCP~~ SDRs Prepared via DoD Web SDR. DLA Disposition Services personnel will receive and process discrepancies for property shipped by the DLA Distribution Centers to various customers. ~~RCP~~ **DLA Disposition Services** personnel will log in to WebSDR to create and submit SDRs on behalf of the customer using Document Type Code 7 and the related DLA Disposition Services SDR type code to distinguish customer type, as follows:

C16.8.2.1. D = DLA Disposition Services Donated Materiel. D Identifies discrepant property staged at the depot and released to a state agency customer.

C16.8.2.2. F = DLA Disposition Services Transferred Materiel. F Identifies discrepant property shipped to a non-DoD federal agency customer by a distribution center.

C16.8.2.3. O = Other DLA Disposition Services Shipment. O Identifies any other discrepant DLA Disposition Services Field Office property shipment not applicable for identification by any other designated Disposition Services Type Code.

C16.8.2.4. R = DLA Disposition Services Reutilization. R Identifies discrepant property shipped to a DoD customer by a distribution center (~~applicable to RCP receipt~~)

C16.8.2.5. S = DLA Disposition Services Sale. S Identifies discrepant property sold to a DLA Disposition Services sales contractor and shipped by a distribution center.

(Intervening text not shown)

C16.8.3. Incoming Customer SDRs. SDRs addressed to DLA Disposition Services (RIC S9D) ~~or RCP~~ (RIC S9W) will be supported by conversion to email via DoD WebSDR. ~~RCP~~ SDRs will be processed in accordance with paragraph C16.8.2. The generic email address for S9D will be associated with all the DLA Disposition Services Field Offices for Document Type 7 SDR only, allowing customer generated SDRs to be forwarded to DLA Disposition Services. Replies will be created in DoD WebSDR. Incoming Customer SDRs will not be sent to the DLA Disposition Services ICP system.

Chapter 17, Supply Discrepancy Reporting

(Intervening text not shown)

C17.3.10. SDR Distribution.

(Intervening text not shown)

C17.3.10.5. Shipments from DLA Disposition Services. Initial action to the Disposition Services Field Office ~~or Recycle~~ Control Point (RCP) as applicable. If not known, SDRs may be directed to DLA Disposition Services (RIC S9D). ***SDR users will no longer submit DLA Disposition Services Recycling Control Point SDRs (RIC S9W).***

Enclosure 3, Memorandum for DLA Disposition Services, Elimination of Recycling Control Point



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD
FORT BELVOIR, VIRGINIA 22060-6221

MEMORANDUM FOR DLA Disposition Services
DLA Distribution

SUBJECT: Elimination of Recycling Control Point

We have received guidance from the Office of the Assistant Secretary of Defense for Sustainment (OASD (S)) that DLA does not require an exception to policy to eliminate the requirement to maintain or carry out the RCP program in either the DODM 4160.21 or 32 CFR 273.7. Effective immediately, DLA can eliminate the RCP program without creating any conflict with DOD policy or regulation. My staff is available to assist with your implementation plan to cease utilizing RCP to process excess personal property for disposal.

My POC for this action is Mr. Dennis Ross, DLA HQ J349, Disposal Policy and Compliance, 571-767-1502.

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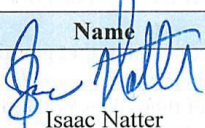
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GEORGE W. ATWOOD III, SES
Executive Director
Logistics Policy and Strategic Programs

Enclosure 4 CATMS USA002368-20

COORDINATION SUMMARY

SUBJECT: Elimination of DLA Recycling Control Point (RCP) Program (USA002368-20)

Organization	Name	Comment	Date
OGC	 Isaac Natter	Non-Concur. See detailed discussion below.	January 8, 2021

Basis for OGC Non-Concurrence:

This package is legally objectionable. Although it has many problems, the most significant, and the basis (individually or collectively) for DoD OGC's non-concurrence are:

1. It is unclear what policy and/or regulatory requirement(s) the Defense Logistics Agency (DLA) is requesting exception from.

In the Action Memo provided with this package, DLA writes that it is "*requesting an exception to the Department of Defense (DoD) Manual 4160.21 and 32 CFR 273 part 7 to eliminate the Recycling Control Point (RCP) program.*"

The Action Memo fails to explain what requirement, condition, or other obligation in DoD Manual (DoDM) 4160.21 or 32 C.F.R. 273.7¹ it is requesting the Assistant Secretary of Defense for Sustainment (ASD(S)) grant it an exception to. DoDM 4160.21 is comprised of four volumes and hundreds of pages and 32 C.F.R. 273.7 is over 20 pages long. The Action Memo purports that TAB E to this package is the "*current regulatory guidance*"² (without explaining what such current regulatory guidance relates to). TAB E contains two highlighted excerpts (from DoDM 4160.21, Vol. 1, Enclosure 4; and 32 C.F.R. 273.7(a)). But the Action Memo does not condition its request on only granting exceptions to the excerpts provided in TAB E. Rather, the Action Memo requests an exception, by approval at the bottom of the page, to DoDM 4160.21 and 32 C.F.R. 273.7 overall (or, as discussed at 3, below, an exception to only "4160.21M"). This request is not tied to the "*current regulatory guidance*" provided in TAB E; it is a request for an exception to the entirety of DoDM 4160.21 and C.F.R. 273.7.

Thus, as written, the Action Memo would provide an exception that is simultaneously overbroad (potentially applicable to all four volumes comprising

¹ "32 CFR 273 part 7" does not exist. For the sake of argument I assume that DLA means 32 C.F.R. 273.7, the C.F.R. section excerpted in TAB E to this package.

² Only one of the two excerpts provided in TAB E is "*regulatory guidance*." DoDM 4160.21 is a DoD manual, which is, at most, a policy issuance. It is certainly not "*regulatory guidance*." Only the excerpt from 32 C.F.R. 273.7 could arguably be considered "*regulatory guidance*."

DoDM 4160.21 as well as an entire regulatory provision) and unreasonably ambiguous.

2. It does not appear that DLA requires an exception to achieve its objective, nor would granting the requested exception support DLA's stated objective.

The Action Memo provides the unsupported conclusion that granting an exception to DoDM 4160.21 and 32 C.F.R. 273.7 would allow DLA *"to eliminate the Recycling Control Point (RCP) program."* Yet there does not appear to be any requirement for DLA to maintain or carry out the RCP Program in either DoDM 4160.21 or C.F.R. Title 32, and DLA identifies no such requirement in this package.

"Recycling Control Point" or "RCP" appears in only two of the four DoDM 4160.21 volumes: Volumes 1 and 3; and in only two sections within Title 32, C.F.R.: sections 273.7 and 273.15.

- a. In DoDM 4160.21, Vol. 1, "Recycling Control Point" or "RCP" is discussed in only one place, Enclosure 4, subsection 1(c), which states:

Disposal of wholesale excess DoD property continental United States (CONUS) stocks from DLA Depot recycling control points (RCPs) is automated. This property does not require transport to a DLA Disposition Services site. Authorized excess DoD property is transferred between the RCP account and the DLA Disposition Services account (SC4402). The following FSGs, FSCs, supply condition codes (SCCs), and DEMIL codes are ineligible for RCP:

(1) FSGs: 10, 11, 12, 13, 14, 18, 26, 68, 80, 87, 88, 89, 91, and 94.

(2) FSCs: 2350, 3690, 4470, 4920, 4927, 6505, 6508, 6750, and 8120.

(3) SCCs: H.

(4) DEMIL Codes: G and P.

This provision neither directs nor requires DLA to establish, maintain, or operate the RCP Program. In fact, this provision does not even mention an "RCP **Program.**" Rather, this provision is a series of factual statements: that disposal of CONUS wholesale excess stocks from RCPs is automated; that such property does not require transport to a DLA Disposition Services Site; that "Authorized" property is transferred between two specified accounts; and that certain property classes or coded property types are "ineligible for RCP."

DLA could eliminate its RCP Program without creating any conflict with this provision. For example, if DLA abolished its RCP Program, disposal of wholesale excess DoD property CONUS stocks from DLA Depot RCPs would still be automated, but such automation would be moot since no wholesale excess DoD CONUS stocks would be disposed of from DLA Depot RCPs because no DLA Depot RCPs would exist. Similarly, the statement “*This property does not require transport to a DLA Disposition Services site*” would cease to have any meaning, as there would no longer be wholesale excess DoD property CONUS stocks be disposed of from DLA Depot RCPs, and, therefore, no “*this property*.”

In this package (including all attached TABs thereto) DLA fails to explain why it is required to have the RCP Program. If there is some authority that actually does require the RCP Program, DLA should identify it and determine whether an exception or waiver to that requirement is permissible. Just as nothing in this provision requires DLA to establish, maintain, or operate the RCP Program, granting DLA an exception to any (or all) of these factual statements would not *eliminate* DLA’s RCP Program, as this provision does not establish or require DLA’s RCP Program in the first place.

- b. In DoDM 4160.21, Vol. 3, “Recycling Control Point” or “RCP” is discussed in Enclosure 5, section 7, “Shipment or Pick-Up Elections by Customers.” Section 7 neither directs nor requires DLA to establish, maintain, or operate the RCP Program. Rather, section 7 concerns shipment and pick-up criteria for DLA Disposition Services and its customers, divided by whether the property in question is “RCP Property” or “Non-RCP Property.” See DoDM 4160.21, Vol. 3, Enclosure 5, at 71-72, § 7(a) (“Criteria for Non-RCP Property”) and 72-73, § 7(b) (“Criteria for RCP Property”).

Following the same logic as applied to applicable provision in DoDM 4160.21, Vol. 1, granting DLA an exception to DoDM 4160.21, Vol. 3, Enclosure 5, § 7 would not permit DLA to eliminate its RCP Program, as the language in Enclosure 5, § 7 does not require DLA to establish an RCP Program. Rather, were DLA to eliminate its RCP Program, the language in DoDM 4160.21, Vol. 3, Enclosure 5, § 7(b) (“Criteria for RCP Property”) would cease to be applicable.

- c. 32 C.F.R. 273.7(a) (the only portion of 32 C.F.R. 273.7 that references “Recycling Control Point” or “RCP”) repeats DoDM 4160.21, Vol. 1, Enclosure 4, § 1(c), verbatim. Likewise, to the extent that 32 C.F.R. 273.15 substantively discusses “Recycling Control Point” or “RCP,” such discussion is repeated verbatim from DoDM 4160.21, Vol. 3, Enclosure 5, § 7. As such, the discussions concerning both DoDM 4160.21, Vol. 1, Enclosure 4, § 1(c) and DoDM 4160.21, Vol. 3, Enclosure 5, § 7, above, apply to these 32 C.F.R. sections, respectively.

In conclusion, it appears that DLA would not achieve its objective of eliminating its RCP Program even if this exception request (interpreted to apply to the applicable portions of DoDM 4160.21 Vols. 1 and 3 and 32 C.F.R.) were granted.

3. DLA's exception request is internally inconsistent as to what it is requesting.

As noted above, DLA's Action Memo begins, at the first bullet, with the representation that DLA is "*requesting an exception to the Department of Defense (DoD) Manual 4160.21 and 32 CFR 273 part 7 to eliminate the Recycling Control Point (RCP) program.*" In the "RECOMMENDATION" at the bottom of the Action Memo, however, DLA recommends that the ASD(S) "*Approve exception [sic] to 4160.21M to allow DLA to eliminate the Recycling Control Point program.*"³

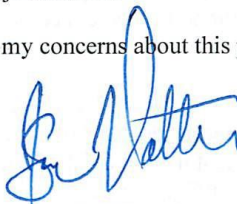
Thus, it is not clear whether DLA is requesting an exception to both DoDM 4160.21 **and** 32 C.F.R. 273.7, as indicated in the first bullet, or only to DoDM 4160.21 as actually recommended (and, if "Approve" was to be initialed, granted) in the "RECOMMENDATION" section.

4. Finally, assuming, *arguendo*, that granting an exception to 32 C.F.R. 273.7 would serve a purpose (which, as discussed above, it clearly would not), DLA has not established that the ASD(S) has the necessary authority to waive a regulation codified in the C.F.R.

If DLA's position is that the ASD(S) has the power to grant an exception to a codified regulation, it is incumbent upon DLA to provide the authority upon which its position is based. As no such authority has been provided, it is legally objectionable for the ASD(S) to exceed his authority.

In conclusion, OGC non-concurs with this request for the ASD(S) to grant an ambiguous exception to DoDM 4160.21 (and, maybe, 32 C.F.R. 273.7), and has determined that this package is legally objectionable.

I will gladly discuss my concerns about this package upon request.



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³ For the purposes of this discussion I am assuming that "*4160.21M*" is DoDM 4160.21.